



STATE OF IOWA

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OFFICE OF DRUG CONTROL POLICY
DALE R. WOOLERY, DIRECTOR

Monday, December 2, 2019

To: Members of the Iowa General Assembly
Fr: Iowa Office of Drug Control Policy
Re: Departmental Bill Draft on "Iowa Hemp Consumer and Public Safety"

An apparent unintended consequence of legalizing hemp at the federal and state levels is the growing proliferation of "consumable hemp products," as well as potential health and safety risks and legal challenges associated with them.

While hemp (currently defined federally and in Iowa as the cannabis plant and its derivatives that contain no more than 0.3% THC) soon will no longer be subject to state or federal controlled substance laws, that status change—unless or until the FDA issues new regulatory guidance re: hemp (and/or hemp-derived CBD)—does not alter hemp's legal standing pertaining to laws regulating food, drugs and supplements.

However, Iowa's hemp law does not clearly identify legal vs. illegal consumption of hemp products. Iowa's current hemp law also does not address the possibility of THC levels exceeding the 0.3% limit through a chemical conversion process known as decarboxylation. Additionally, it can be difficult for law enforcement to distinguish between low-THC *legal* hemp and high-THC *illegal* marijuana, and/or enforce marijuana laws as a matter of public safety.

"Consumable hemp products," as recently addressed through legislation in other states (e.g., Kansas, Louisiana, Tennessee and Texas), may include items derived from hemp not evaluated or approved by the U.S. FDA that are consumed by entering a human or animal body, such as "smokable hemp," ingestible hemp-based CBD products, etc. In addition to a lack of consumer safety information, including an understanding of how consumer protection laws apply to these products, some may falsely use hemp as a defense in the face of potential criminal sanctions.

In summary, this proposal would:

A. Revise the definition of “hemp” to mean not more than three-tenths of a percent of “total” delta-9 tetrahydrocannabinol (THC), per the USDA, to account for a potential decarboxylation multiplier effect when tetrahydrocannabinolic-acid (THC-A) is heated and converts to a higher level of THC. Current Iowa law does not anticipate the use of this chemical reaction to effectively produce heat-generated higher levels of THC through the use of THC-A. Current penalties for a Schedule I Controlled Substance violation would apply.

B. Explicitly ban the manufacturing, processing, sale, distribution, and possession with the intent to distribute “consumable hemp products” that are not authorized by the FDA, with “consumable hemp products” defined as a hemp product that can be ingested orally, smoked, inhaled (e.g., vaped) or otherwise consumed by entering the human or animal body. Anyone violating this ban would commit a serious misdemeanor.

C. Require the intended purpose of “consumable hemp products” be stated in product marketing and labeling.

D. Explicitly prohibit false identification a controlled substance as hemp to a law enforcement officer, subject to existing criminal penalties for falsely reporting or communicating with public safety entities.

The goal of this proposal is to promote public health and safety compatible with Iowa’s new hemp industry and existing state and federal laws, by explicitly prohibiting hemp products not allowed for human or animal consumption.

Respectfully,



Dale R. Woolery,
Director